

REMARKS**I. Claim Amendments**

Claim 1 has been amended to clarify that automatically recovering said desired data from said memory of said data-processing system for display within said command line interface is performed in response to said desired data being deleted from said command line of said command line interface. Furthermore, the claim has been amended to incorporate the process of automatically displaying said deleted desired data within said command line interface, in response to automatically recovering said desired data from said memory. Support for this amendment can be found in paragraphs [0029] and [0037] and previous claim 2 of the current application.

Corresponding amendments have been made to claim 12. Consequential amendments have been made to the dependent claims.

II. Claim Rejections -35 USC 112

Examiner rejected Claims 1 and 7 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner asserted that it is unclear from claims what happens if the desired data has not been deleted from the command line. Examiner then asserted that if the desired data was not deleted then the recovery of said data would not take place.

Applicant respectfully disagrees with this assessment. Nevertheless, Applicant has amended Claims 1 and 12 (Applicant assumes that Examiner is in fact referring to Claim 12 not Claim 7) to clarify that automatically recovering said desired data from said memory of said data-processing system for display within

said command line interface is performed in response to said desired data being removed from said command line of said command line interface.

Applicant submits that currently amended Claims 1 and 12 are definite and comply with 35 U.S.C. 112, second paragraph. Applicant respectfully requests that the aforementioned rejection to Claims 1 and 12 under 35 U.S.C. 112, second paragraph be withdrawn.

III. Claim Rejections Under 35 U.S.C. §103

Requirements for Prima Facie Obviousness

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

"The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness."

The U.S. Supreme Court ruling of April 30, 2007 (KSR Int'l v. Teleflex Inc.) states:

"The TSM test captures a helpful insight: A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art. Although common sense directs caution as to a patent application claiming as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does."

"To facilitate review, this analysis should be made explicit."

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The U.S. Supreme Court ruling states that it is important to identify a reason that would have prompted a person to combine the elements and to make that analysis explicit. MPEP §2143 sets out the further basic criteria to establish a *prima facie* case of obviousness:

1. a reasonable expectation of success; and
2. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness by the Examiner (assuming there are no objections or other grounds for rejection) and of a *prima facie* showing by the Examiner of a reason to combine the references, an applicant is entitled to grant of a patent. Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that the basic criterion has been met.

Baldwin in view of Wilkerson and further in view of Davis

For the reasons set forth in the outstanding Office Action, Examiner rejected Claims 1-8, and 12-17 under 35 U.S.C. 103(a) as being unpatentable over USPG Pub, 2003/0149752, Baldwin et al. (Baldwin hereinafter) in view of USP, 5,778,387, Wilkerson et al. (Wilkerson hereinafter), further in view of USP 6,615,224, Lewis B. Davis (Davis hereinafter).

Applicant strongly disagrees with the Examiner's assessment for the following reasons.

Contrary to the Examiner's assertion, paragraphs 0075 and 0100 of Baldwin do not disclose a method in a data processing system including identifying desired data from said command line interface displayable within a display area of a data-processing system. Both paragraph 0075 and 0100 refer to using graphical

user interfaces (not command line interfaces) where are used to display graphical objects or the SAN representation. Furthermore, the Abstract does not itself disclose this feature.. Applicant notes that the Examiner is merely referring to passages from Baldwin without any explanation as to how this feature is actually disclosed in Baldwin.

The Examiner acknowledged that Baldwin does not explicitly teach "automatically saving said desired data in said memory of said data-processing system, in response to identifying said desired data from said command line interface" "testing to determine if said desired data has been deleted from said command line of said command line interface" and "if said desired data has been deleted from said command line of said command line interface, automatically recovering said desired data from said memory of said data-processing system for display within said command line interface".

Furthermore, Applicant submits that Baldwin does not disclose automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being removed from said command line of said command line interface, as now currently claimed in claim 1.

Applicant disagrees with the Examiner's argument that Wilkerson teaches a method in a data processing system including automatically saving said desired data in said memory of said data-processing system, in response to identifying said desired data from said command line interface (see col. 12, lines 16-24, Figs. 3-8 Wilkerson); and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface, (see cl. 19, lines 50-56, Fig. 32, Claim 1, Wilkerson).

Once again, the Applicant does not understand the Examiner's interpretation of Wilkerson. In view of previous rejections made by the Examiner and responses made by the Applicant concerning interpretation of Wilkerson,

Applicant respectfully requests that, should the Examiner disagree with the Applicant's current interpretation of Wilkerson, the Examiner explicitly explain his conclusion that Wilkerson discloses the aforementioned features rather than simply refer to passages from Wilkerson to support this assertion. To this end, Applicant respectfully requests that the Examiner contact the undersigned representative to conduct an interview in an effort to clarify this interpretation of Wilkerson.

Applicant submits that the Examiner is now apparently interpreting and citing elements of Wilkerson (see col.19, lines 50-56, FIG. 32, claim 1 of Wilkerson) without considering the interdependency of the claimed features. Wilkerson refers to recovering subsystem data but such data is not the same as, or an obvious variant of, "said desired data" of claim 1 which corresponds to desired data identified from said command line interface displayable within a display area of said data-processing system. Wilkerson merely teaches that the user of the system is required to confirm deletion via a secondary panel prior to actual deletion (see col.19, lines 50-56, FIG. 32, claim 1 of Wilkerson). Wilkerson, in all embodiments, discloses using panel interfaces to interact with the Database Recovering software application and data base and not the operating system. Applicant submits that the Examiner is citing elements of Wilkerson (see col.19, lines 50-56, FIG. 32, claim 1 of Wilkerson) without considering the fact that the data being recovered in Wilkerson is subsystem data and **not** desired data identified from said command line interface (by said system) displayable within a display area of said data-processing system. Furthermore, Wilkerson teaches that the user (not the data processing system) identifies the corrupted database and enters the database name and estimated time stamp (see for example abstract).

Claim 1 is directed to a method in data processing system which is capable of automatically recovering desired data deleted from a command line of a command line interface to an operating system. In contrast, the method of Wilkerson relies on the user both identifying and recovering a deleted or corrupt subsystem data (not

data deleted or corrupted through use of the panel) by operating the panels of a Database Recovery software application.

Applicant further submits that the Examiner assertion that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because Wilkerson's teaching would have allowed Baldwin to provide an automated recovery system which provides consistency for recovery procedure and eliminate the risk of error and delay is completely unjustified and based on the benefit of hindsight of the claimed subject-matter.

Furthermore combining Baldwin and Wilkerson would not result the features asserted by the Examiner. This is because neither Baldwin nor Wilkerson teach an automated recovery system in respect of data identified from the command line interface. Insofar as recovery, the established function of Wilkerson is to recover deleted subsystem data and not data identified from the command line interface. As to Baldwin, this reference is directed to systems and methods for communicating and interacting with multiple platforms (see title and abstract of Baldwin). Baldwin merely utilizes command line interfaces to invoke platform dependent processes on respective hosts but is not concerned with a method for recovering data removed from a command line interface. Paragraph [0342] relied on by the Examiner merely refers to database recovering actions. These recovering functions disclosed in Baldwin rebuild the SAN Manager data base (see paragraphs [0380] to [0387] which set forth the list of possible actions referenced in paragraph [0342]). None of these recovery actions disclosed in Baldwin are related to recovering data deleted from a command line interface.

In view of the above, Applicant also respectfully submits that the Examiner's rationale for asserting combination of Baldwin and Wilkerson is insufficient to support a *prima facie* case of obviousness because the Examiner has not properly identified all the elements which he has asserted are disclosed in Baldwin in combination with Wilkerson and therefore has not identified "a reason that would

have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does," (KSR Opinion at p. 15).

Moreover, Applicant respectfully submits that the Examiner is making this aforementioned conclusion as to obviousness simply based on his assumption that the claimed combination of features is independently disclosed in Baldwin and Wilkerson. As already mentioned, an established function of Baldwin is to invoke platform-dependent processes using a command line interface and an established function of Wilkerson is to recover deleted subsystem data (not data identified from the command line interface of the panel). Applicant submits that the claimed combination of the aforementioned elements cannot therefore be a "predictable use of prior art elements according to their established functions" (KSR Opinion at p. 13). Applicant wishes to draw the Examiner attention to KSR which expressly instructs that it remains legally insufficient to conclude that a claim is obvious just because each feature of a claim can be independently shown in the cited references (KSR Opinion at p. 14).

Examiner further argued that Baldwin and Wilkerson teach the elements of claim 1 as noted above but do not explicitly disclose "testing to determine if said desired data has been deleted from said command line of said command line interface" and "if said desired data has been deleted from said command line of said command line interface." Examiner continued to argue that Davis discloses "testing to determine if said desired data has been deleted from said command line of said command line interface" and "if said desired data has been deleted from said command line of said command line interface" as system calls inside the UNIX operating system kernel and create hidden versions of files and directories which are deleted from the command-line using the "rm" command (see Col 3, Lines 9-20).

Applicant strongly disagrees with the Examiner's assessment. Col 3, Lines 9-20, the passage relied on by the Examiner, does not disclose "testing to determine if said desired data has been deleted from said command line of said command line

interface". In any event, as previously submitted, the essential teaching of Davis is a method in which the user sets "rm" commands to protect files at the point when the user deletes them and then the user enters further commands to undelete those files already protected (see Col 3, lines 9-20 of Davis relied on by Examiner). Applicant submits that Davis cannot therefore disclose or suggest a method in an data processing system which automatically recovers said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being removed from said command line of said command line interface, and automatically displays said deleted desired data within said command line interface, in response to automatically recovering said desired data from said memory, as now currently claimed in claim 1.

Moreover, Davis teaches away from these features because Davis motivates the person of ordinary skill in the art to adopt a system in which the user sets "rm" commands to protect files at the point when the user deletes them and then the user enters further commands to undelete those files already protected. In this regard, reference is again made to KSR which, on the matter of United States v. Adams, 383 U.S. 39 (1966), stated that "[t]he Court relied upon the corollary principle that when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious." (KSR Opinion at p. 12). Since the method of a user setting commands to protect files and then the user entering further commands to make these files visible is a corollary principle to the teaching of Davis (both the background and the invention of Davis rely on this principle), there is no reason to make the asserted modification of Baldwin and Wilkerson.

Furthermore, in response to the Examiner's comment in claim 2 that Wilkerson teaches displaying said data within said command line interface, in response to automatically recovering said data from said memory location of said data processing system, the Examiner is again citing elements of Wilkerson without considering the fact that the data being recovered in Wilkerson is subsystem data which cannot be desired data deleted from said command line interface, as now

claimed (see col.19, lines 50-56, FIG. 32, claim 1 and Abstract of Wilkerson). Furthermore, also as already mentioned above, Wilkerson is concerned with an interface to a Database recovery software application and not an operating system itself. In any event, even if the person of ordinary skill in the art did try and implement the teachings of Wilkerson (which is not accepted), Davis clearly teaches away from the aforementioned feature because Davis motivates the person of ordinary skill in the art to adopt a system in which the user sets "rm" commands to protect files at the point when the user deletes them and then the user enters further commands to undelete those files already protected. The skilled person would not ignore this teaching in view of Wilkerson because Davis is clearly directed to solving the problem of recovering data deleted from a command line interface whereas Wilkerson is concerned with recovering subsystem data and not data deleted from the command line interface.

Applicant submits that, for the reasons already set forth above, the person of ordinary skill would not combine Baldwin and Wilkerson and that, even if the skilled person did so (which is not accepted), combining Davis with Baldwin and Wilkerson would not result in all elements of the currently claimed subject-matter. For example, none of the cited references disclose or suggest, taken alone or in combination, a method in an data processing system which automatically recovers said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being removed from said command line of said command line interface and automatically displays said deleted desired data within said command line interface, in response to automatically recovering said desired data from said memory as now currently claimed in claim 1.

Insofar as the obviousness rejection to claim 12, the arguments set forth above in support of patentability apply equally to that claim.

Having regard to the foregoing, Applicant submits that currently amended Claims 1-8, and 12-17 are patentable over Baldwin in view of Wilkerson and further

in view of Davis. Applicant respectfully requests that the rejection to Claims 1-8, and 12-17 under 35 U.S.C. 103(a) as being unpatentable over Baldwin in view of Wilkerson and further in view of Davis be withdrawn.

IV. Conclusion

In view of the foregoing discussion, the Applicant has requested continued examination of the application. Applicant has responded to each and every rejection of the Final Official Action. The Applicant has clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,



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